

# EXHIBIT A

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE**

JASON GOLDMAN; JEFFREY WEAVER;  
BILLIE JO WHITE; NANCY ALEXANDER;  
BRANDON WATTERS; PRISCILLA  
PARKER and PATRICK PARKER; and  
BARRY AMAR-HOOVER; Individually and on  
Behalf of All Others Similarly Situated,

Plaintiffs,

v.

REALPAGE, INC.; THOMA BRAVO FUND  
XIII, L.P.; THOMA BRAVO FUND XIV, L.P.;  
THOMA BRAVO L.P.; APARTMENT  
INCOME REIT CORP., d/b/a AIR  
COMMUNITIES; ALLIED ORION GROUP,  
LLC; APARTMENT MANAGEMENT  
CONSULTANTS, LLC; AVENUE5  
RESIDENTIAL, LLC; BELL PARTNERS,  
INC.; BH MANAGEMENT SERVICES, LLC;  
BOZZUTO MANAGEMENT COMPANY;  
BROOKFIELD PROPERTIES  
MULTIFAMILY LLC; CAMDEN PROPERTY  
TRUST; CH REAL ESTATE SERVICES, LLC;  
CONAM MANAGEMENT CORPORATION;  
CONTI CAPITAL; TF CORNERSTONE, INC.;  
CORTLAND MANAGEMENT, LLC; CWS  
APARTMENT HOMES LLC; DAYRISE  
RESIDENTIAL, LLC; EQUITY  
RESIDENTIAL; ESSEX PROPERTY TRUST,  
INC.; FPI MANAGEMENT, INC.;  
GREYSTAR MANAGEMENT SERVICES,  
LP; HIGHMARK RESIDENTIAL, LLC;  
INDEPENDENCE REALTY TRUST, INC.;  
KAIROI MANAGEMENT, LLC;  
KNIGHTVEST RESIDENTIAL; LANTOWER  
LUXURY LIVING, LLC; LINCOLN  
PROPERTY COMPANY; LYON  
MANAGEMENT GROUP, INC.; MID-  
AMERICA APARTMENT COMMUNITIES,  
INC.; MISSION ROCK RESIDENTIAL, LLC;  
MORGAN PROPERTIES MANAGEMENT  
COMPANY, LLC; PINNACLE PROPERTY

Case No. **3:23-md-03071**

MDL No. 3071

Judge Waverly D. Crenshaw, Jr.

**JURY TRIAL DEMANDED**

MANAGEMENT SERVICES, LLC;  
PROMETHEUS REAL ESTATE GROUP,  
INC.; THE RELATED COMPANIES L.P.;  
RELATED MANAGEMENT COMPANY L.P.;  
ROSE ASSOCIATES, INC.; RPM LIVING,  
LLC; SARES REGIS GROUP COMMERCIAL,  
INC.; SECURITY PROPERTIES INC.;  
SHERMAN ASSOCIATES, INC.; SIMPSON  
PROPERTY GROUP, LLC; THRIVE  
COMMUNITIES MANAGEMENT, LLC;  
TRAMMELL CROW COMPANY, LLC; B/T  
WASHINGTON, LLC d/b/a BLANTON  
TURNER; UDR, INC.; WINDSOR  
PROPERTY MANAGEMENT COMPANY;  
WINNCOMPANIES LLC;  
WINNRESIDENTIAL MANAGER CORP.;  
AND ZRS MANAGEMENT, LLC;

Defendants.

### **FIRST AMENDED CONSOLIDATED CLASS ACTION COMPLAINT**

Plaintiffs Jason Goldman, Jeffrey Weaver, Billie Jo White, Nancy Alexander, Brandon Watters, Priscilla Parker, Patrick Parker, and Barry Amar-Hoover, individually and on behalf of all others similarly situated (the “Class,” as defined below), upon personal knowledge as to the facts pertaining to themselves and upon information and belief as to all other matters, and upon the investigation of counsel, bring this class action complaint to recover treble damages, injunctive relief, and other relief as appropriate, based on violations of federal antitrust laws and state laws against Defendants RealPage, Inc., Thoma Bravo Fund XIII, L.P., Thoma Bravo Fund XIV, L.P., and Thoma Bravo L.P. (collectively, “RealPage”); and Apartment Income REIT Corp., d/b/a Air Communities; Allied Orion Group, LLC; Apartment Management Consultants, LLC; Avenue5 Residential, LLC; Bell Partners, Inc.; BH Management Services, LLC; Bozzuto Management Company; Brookfield Properties Multifamily LLC; Camden Property Trust; CH Real Estate

rented. Several witness accounts, including 10 discussed herein, rental price and occupancy data, economic evidence, and public investigations,<sup>1</sup> confirm this anticompetitive conduct.

2. Defendants are RealPage, the developer of an integrated technology platform that provides a host of software solutions for the multifamily rental housing markets, including revenue management software solutions – a category which includes at least RealPage products, Lease Rent Options (“LRO”), YieldStar, and AI Revenue Management– and several managers of large-scale multifamily residential apartment buildings that used RealPage’s Revenue Management Solutions<sup>2</sup> to coordinate and agree upon rental housing pricing and supply.

3. Each Lessor Defendant agreed that: they would delegate their rental price and supply decisions to a common decision maker, RealPage; share the proprietary data necessary for RealPage to make those decisions; and, then abide by RealPage’s price and supply decisions. As RealPage put it, it offered clients the ability to “outsource daily pricing and ongoing revenue oversight”<sup>3</sup> to RealPage, allowing Defendant RealPage to set prices for its clients’ properties “as though we [RealPage] own them ourselves.”<sup>4</sup>

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<sup>1</sup> Heather Vogell, *Rent Going Up? One Company’s Algorithm Could Be Why.*, PROPUBLICA (Oct. 15, 2022), <https://www.propublica.org/article/yieldstar-rent-increase-realpage-rent> (ProPublica report shedding light on Defendants’ conspiracy and showing that rents in areas where RealPage clients control a high percentage of rental units have increased at a significantly higher rate).

<sup>2</sup> RealPage’s revenue management software solutions, including LRO, YieldStar, and AI Revenue Management, will be referred to collectively herein as “Revenue Management Solutions” or “RMS.”

<sup>3</sup> Press Release, RealPage, Inc., YieldStar Offers Revenue Advisory Services to Multifamily Owners and Managers (Mar. 1, 2010), <https://www.realpage.com/news/yieldstar-offers-revenue-advisory-services-to-multifamily-owners-and-managers/>.

<sup>4</sup> RealPage Renewal Reporting Presentation, MEDVE, <https://medve.com/assets/airm-renewal-reporting.pdf> (last accessed June 14, 2023).

4. Rather than function as separate economic entities, Lessor Defendants agreed to make key competitive decisions regarding the price and supply of multifamily apartments, collectively. As Emily Mask, an executive from property management company ECI Group explained in 2019, “[t]he design and functionality of [RealPage’s] LRO offers detailed insight into how actual competitors impact pricing strategies . . . With LRO we rarely make any overrides to the [pricing] recommendations . . . *[W]e are all technically competitors, LRO helps us to work together* . . . to make us all more successful in our pricing . . . LRO is designed to work with a community in pricing strategies, not work separately.”<sup>5</sup>

5. RealPage’s clients provide RealPage with vast amounts of their non-public proprietary data, including their lease transactions, rent prices, and occupancy and inventory levels. Each client’s proprietary data is fed into a common data pool, along with additional data collected by Defendant RealPage’s myriad other data-analytics and rental-management software products. RealPage then trains its machine learning and artificial intelligence across that pool of its clients’ proprietary data and uses algorithms to generate rental prices daily for each of RealPage’s client’s available units through its RMS. Property managers agree to adopt RealPage’s pricing up to 80%-90% of the time, knowing that if they, alongside their co-conspirators, adhere to RealPage’s pricing decisions, they will collectively raise market prices and avoid price

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<sup>5</sup> The RealPage e-book, PROVEN: B & C Assets Ace the Market with RealPage: How Two Companies Pushed Performance Over 3+% Above Market (2019) (hereinafter, “RealPage e-book B & C Assets Ace the Market”) (detailing two case studies in which RealPage clients achieved revenue growth and outperformed the market after adopting RealPage’s pricing recommendations. ECI Group achieved 5%-7% year-over-year revenue growth after adopting RealPage’s pricing recommendations and BH Management saw a 4.8% “outperformance to the market,” and 4% between its own properties using RealPage’s pricing recommendations against those that had not yet adopted RealPage pricing.

were raised from \$1,650/month to \$2,100/month, an increase of approximately 27%, despite no improvements made to the units. A business manager at Defendant Pinnacle Property Management Services, LLC (“Witness 6”) said that RealPage caused them to raise monthly rents on some units by several hundreds of dollars during the beginning and middle of the Covid-19 pandemic: “[RealPage] was recommending that I raise rents \$400 to \$500 a month per unit[.] It was a nightmare. It was embarrassing. It was absolutely ridiculous.” Witness 2, who also worked with RealPage in connection with her role as a Leasing Consultant with Defendant Greystar Property Management Services, LLC, “completely agrees” that rental prices in her region were artificially inflated upon the adoption of RealPage pricing recommendations.

12. Indeed, a former RealPage executive who was directly involved in the creation of the original software that is now integrated into RealPage’s RMS expressed dismay with the way RealPage has enabled Lessors to collectively raise rents at record pace. Witness 3 described this practice of centrally setting, and consistently raising rental rates as having “bastardized” RealPage’s original “supply and demand model.”

13. In 2017, RealPage acquired the revenue management software developed by the Rainmaker Group, LRO. By integrating LRO into its own revenue management system, RealPage acknowledged the combined “data science talent and modeling tools through these acquisitions allows our customers to achieve better harvesting and placement of capital in the rental housing industry.”<sup>18</sup> According to RealPage, “[t]his acquisition extended our revenue management footprint, augmented our repository of real-time lease transaction data, and increased our data science talent and capabilities. We also expect the acquisition of LRO to increase the market

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<sup>18</sup> RealPage Inc., 2017 Annual Report (Form 10-K) at 39 (Mar. 1, 2018), <https://www.sec.gov/Archives/edgar/data/1286225/000128622518000008/rp-20171231x10k.htm> (hereinafter, RealPage 2017 10-K Form).

penetration of our YieldStar Revenue Management solution and drive revenue growth in our other asset optimization solutions.”<sup>19</sup> RealPage’s acquisition of LRO indeed increased market penetration of its RMS, precipitating a structural shift in the forces of supply and demand.

14. Both parties to the acquisition were excited by the concentration of data that would result from the deal, and in the hands of RealPage. In a February 28, 2017 article concerning the pending deal, Tammy Farley, President of the Rainmaker Group was quoted as saying, “[w]e’re obviously proud of our LRO successes over the past decade and this combining of two powerhouse players presents exciting opportunities and the ideal platform for our multifamily team to execute in a much bigger way on a global scale.”<sup>20</sup> Likewise, RealPage’s Chairman and CEO, Steve Winn, echoed, “With many apartment markets softening around the US, now is the right time to bring together the best data-science talent, a comprehensive lease-transaction database and RealPage’s powerful suite of pricing, demand and credit optimization tools into *one comprehensive platform*.”<sup>21</sup>

15. RealPage has since made “enhancements” to LRO and integrated both, YieldStar and LRO to “form the industry’s most comprehensive suite of solutions for precision data analytics and asset optimization for rental housing assets,”<sup>22</sup> introduced as “AI Revenue Management” in 2020.

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<sup>19</sup> RealPage 2017 Form 10-K, *supra* note 18.

<sup>20</sup> *The Rainmaker Group Announces Sale of Multifamily Housing Assets to RealPage, Inc.*, HOSPITALITY NET (Feb. 28, 2017), <https://www.hospitalitynet.org/news/4081257.html> (last visited on June 30, 2023).

<sup>21</sup> Paul Bubny, *RealPage Adds LRO to Analytics Platform*, ALM GLOB., LLC (Feb. 28, 2017), <https://www.globest.com/sites/paulbubny/2017/02/28/realpage-adds-lro-to-analytics-platform/> (last visited on June 30, 2023) (emphasis added).

<sup>22</sup> “RealPage Closes Acquisition of Lease Rent Options, LRO®,” BUSINESS WIRE (Dec. 4, 2017), <https://www.businesswire.com/news/home/20171204006136/en/RealPage-Closes-Acquisition-of-Lease-Rent-Options-LRO%C2%AE> (last visited June 30, 2023).

16. Witness 3 explained that in facilitating ever increasing prices, RealPage warped the original model and ultimately created what he described as “massive collusion.”<sup>23</sup> Another early developer of RealPage’s pricing software (“Witness 7”)<sup>24</sup> reflected on how RealPage’s facilitation of collusion among Lessors has pushed rents higher at a breakneck pace: “[T]hese optimization systems are really efficient at extracting value and they will push things until they start to break.”

17. Aside from raising rents, Defendants’ collective delegation of their decision-making authority to Defendant RealPage also raised vacancy rates and impacted the supply of multifamily apartments.

18. Vacancy rates rose because each Lessor Defendant could (and did) allow a larger share of their units to remain vacant, thereby artificially restricting supply, while maintaining higher rental prices across their properties. This behavior is only rational if Lessor Defendants know that their competitors are setting rental prices using the same algorithm and thus would not attempt to undercut them.

19. This was a departure from prior practice. Before the introduction of coordinated rent-setting software, residential property managers independently set prices, and generally did so to maximize occupancy. If supply was high, market prices would drop, as allowing apartments to stand vacant at their advertised rental prices made little sense when similar apartments in the area were available for less. Thus, in the past, property managers of multifamily housing properties had incentive to lower rents until all available units were occupied.

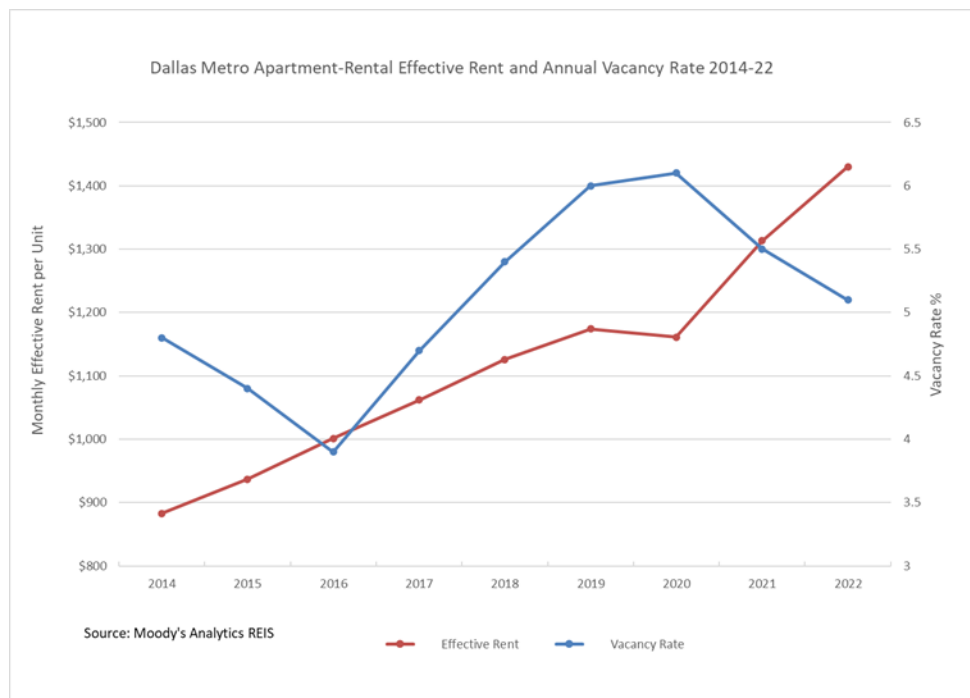
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<sup>23</sup> Upon the announcement of a potential antitrust investigation by the Department of Justice into RealPage’s algorithmic pricing, on or around November 2022, Witness 3 turned around and disclaimed these statements.

<sup>24</sup> Witness 7 worked in project management with the Rainmaker Group (developer of Lease Rent Options (“LRO”)), from 2011 through 2017, at which time RealPage acquired LRO. Discussed further *infra*.



**Figure 3: Rent vs. Occupancy in the Dallas Metro Area (2014-2022)**



22. Defendants also worked together to avoid periods of oversupply that might detrimentally impact rental prices. Using its record of its clients' lease expirations and housing inventory, Defendant RealPage's daily pricing recommendations are accompanied with suggested lease terms that are staggered to avoid temporary periods of oversupply resulting from the natural ebb and flow of the market.<sup>28</sup> As one executive explained in 2019, about one of RealPage's RMS products, "LRO is mapping out for our teams how they should be pacing their [lease]

<sup>28</sup> Revenue Management: Proven in Any Market Cycle: See How These Top Companies Outperformed During Downturns (2020), <https://www.realpage.com/ebooks/outperform-in-a-down-market/> (hereinafter, "Revenue Management: Proven in Any Market Cycle") (" . . . identifying the excess supply period and time horizon will allow [property managers] to strategize which lease terms will allow expirations to be minimized during the excess supply time horizon, therefore reducing the number of expirations and potential [revenue] exposure [property managers] will experience during this excess supply time").

expirations.”<sup>29</sup> Witness 6,<sup>30</sup> A former business manager for Defendant Pinnacle Property Management Services, LLC (“Pinnacle”) explained how RealPage helped Pinnacle avoid a situation where there were a significant number of units renewing at the same time RealPage “would recommend a 10-month lease instead of a 12-month lease on certain people [to avoid simultaneous renewals],” he said. “Or a 13-month lease – to try to get it to that next month [so that] instead of having 15 renewals, you would end up with 10 renewals.” Collectively manipulating supply to minimize naturally occurring periods of oversupply removes a source of periodic downward price pressure on rents, which is the strongest during these temporary oversupply periods.

23. Not content to limit their conspiracy through indirect contact via RealPage, the Lessor Defendants also pursued direct contacts amongst themselves to facilitate information exchanges and coordinate prices. RealPage hosts online forums, organizes in-person events for its clients,<sup>31</sup> and maintains standing committees of cartel members – including the 1,000 member

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<sup>29</sup> RealPage Revenue Management Maximizes Market Opportunity, RealPage Videos (Dec. 7, 2019), <https://www.realpage.com/videos/revenue-management-maximizes-market-opportunity/>

<sup>30</sup> Witness 6 worked as a Business Manager for Defendant Pinnacle Property Management Services, LLC from 2019 through 2022.

<sup>31</sup> See Susan Gaide, *Real World 2022 Customer Conference Recap*, REALPAGE, INC., (July 29, 2022), <https://www.realpage.com/blog/realworld-2022-customer-conference-recap/> (three-day conference hosted by RealPage in Las Vegas with over 1,500 industry attendees, including keynote speakers, “Lynne Ann Chase, Chief Accounting Officer for Winn Residential (the ninth largest apartment manager in the country with more than 103,000 units under management across affordable housing, military housing and conventional), Yetta Tropper, Head of Multifamily Asset Manager for PGIM (the real estate investment arm of Prudential) and Scott Pechersky, Chief Technology Officer for RPM Living (#7 on the NMHC manager list with more than 112,000 units.”)).

**Figure 4: Excerpt from RealPage’s Overcoming Objections Guide**



### **Protips**

- Shop your competitors over the phone, in-person, and view their websites. Be knowledgeable about their pricing, specials, and product
- Utilize a calendar to narrow down a lease start date
- Utilize a calculator to compute their savings

25. Interviews with witnesses who worked at various Lessor Defendants confirm this practice. One former Leasing Consultant from Defendant Lessor Mid-America Apartment Communities (“Witness 8”)<sup>34</sup> described that, to assist in collecting competitors’ pricing data, RealPage even provided a form containing the names of competitors to call and the information to obtain. According to the witness, she called competing properties every Tuesday to obtain updated pricing information, or “the price for that day,” and would use the RealPage form to guide those calls: “You kind of just go down the list and fill out the blanks.”

26. After ProPublica’s reporting brought Defendants’ misconduct to light, multiple members of Congress have urged the Department of Justice (“DOJ”) and the Federal Trade Commission (“FTC”) to investigate the collusion facilitated by the collection and use of rent data input and exchanged through RealPage’s RMS. While the DOJ has yet to announce any formal investigation into RealPage, it has announced that it will hold an expert workshop “to inform potential guidance updates around anticompetitive information sharing” in consumer facing markets, including the multifamily rental housing market.<sup>35</sup>

<sup>34</sup> Witness 8 worked as a property manager with Defendant Mid-America Apartment Communities from 2019 through 2021.

<sup>35</sup> Chris May, US DOJ to Support FTC, CFPB Push Against Rent Prices with Guidance on Anticompetitive Information Sharing, MLEX (Jan. 25, 2023), <https://content.mlex.com/#!/content/1445159>.

Defendant AIR uses RealPage's RMS to manage some or all of its more than 25,000 rental units nationwide.

46. Defendant Allied Orion Group, LLC ("Allied Orion") is a limited liability company headquartered in Houston, Texas, organized and existing under the laws of Texas. Allied Orion uses RealPage's RMS to manage some or all of its more than 20,000 apartments nationally.

47. Defendant Apartment Management Consultants, LLC ("AMC") is a Utah limited liability corporation headquartered in Sandy, Utah. AMC is the sixth largest apartment management company in the United States, using RealPage's RMS to manage some or all of its more than 90,000 apartment units across the country.

48. Defendant Avenue5 Residential, LLC ("Avenue5") is a limited liability company headquartered in Seattle, Washington, organized and existing under the laws of Delaware. Avenue5 uses RealPage's RMS to manage some or all of its over 86,000 rental units.

49. Defendant Bell Partners, Inc. ("Bell Partners") is a corporation headquartered in Greensboro, North Carolina, organized and existing under the laws of North Carolina. Bell Partners uses RealPage's RMS to manage some or all of its approximately 69,000 apartments nationally.

50. Defendant BH Management Services, LLC ("BH") is a limited liability company headquartered in Des Moines, Iowa, organized and existing under the laws of Iowa. BH uses RealPage's RMS to manage some or all of its more than 106,000 apartments nationally, including approximately five properties in the Greater Nashville Metro Area.

51. Defendant Bozzuto Management Company ("Bozzuto") is a corporation headquartered in Greenbelt, Maryland, organized and existing under the laws of Maryland. Bozzuto is the thirteenth largest manager of multifamily rental real estate in the United States with

over 80,000 multifamily units under management in 12 states. Bozzuto uses RealPage's RMS to manage some or all of its over 83,000 units nationwide.

52. Defendant Brookfield Properties Multifamily LLC ("Brookfield") is a Delaware limited liability company headquartered in New York, New York. Brookfield uses RealPage's RMS to manage some or all of its over 27,000 multifamily rental units throughout the United States.

53. Defendant Camden Property Trust ("Camden") is a real estate investment trust headquartered in Houston, Texas, organized and existing under the laws of Texas. Camden uses RealPage's RMS to manage some or all of its over 58,000 rental units, including approximately two properties in the Greater Nashville Metro Area.

54. Defendant CH Real Estate Services, LLC ("Carter-Haston") is Delaware limited liability corporation headquartered in Nashville, Tennessee. It is a privately owned real estate firm involved in real estate investment, property management, and leasing worldwide. Carter-Haston uses RealPage's RMS to manage some or all of its approximately 21,000 multifamily rental units in the United States.

55. Defendant CONAM Management Corporation ("CONAM") is a California corporation headquartered in San Diego, California. CONAM is the one of the largest managers of multifamily rental real estate in the United States, using RealPage's RMS to manage some or all of its more than 51,000 units across the country.

56. Defendant Conti Capital ("Conti") is a real estate investment company headquartered in Dallas, Texas, organized and existing under the laws of Delaware. Conti managed thousands of units in multiple states during the Class Period using RealPage's RMS.

57. Defendant TF Cornerstone, Inc. (“Cornerstone”) is a New York corporation with its principal place of business in New York, New York. Cornerstone develops and uses RealPage’s RMS to manage some or all of its thousands of multifamily rental units nationally.

58. Defendant Cortland Management, LLC (“Cortland”) is a limited liability company headquartered in Atlanta, Georgia, organized and existing under the laws of Georgia. Cortland uses RealPage’s RMS to manage some or all of its more than 58,000 apartments nationally, including approximately three properties in the Greater Nashville Metro Area.

59. Defendant CWS Apartment Homes LLC (“CWS”) is a Delaware limited liability company headquartered in Austin, Texas. CWS is one of the largest managers of multifamily rental real estate in the United States, using RealPage’s RMS to manage some or all of its more than 29,000 units under management across the country.

60. Defendant Dayrise Residential, LLC (“Dayrise”) is a limited liability company headquartered in Houston, Texas, organized and existing under the laws of Texas. Dayrise uses RealPage’s RMS to manage some or all of its 81 properties nationally.

61. Defendant Equity Residential (“Equity”) is a real estate investment trust headquartered in Chicago, Illinois, organized and existing under the laws of Maryland. Equity uses RealPage’s RMS to manage some or all of its more than 80,000 rental units nationally.

62. Defendant Essex Property Trust, Inc. (“Essex”) is a Maryland corporation headquartered in San Mateo, California. Essex is the twenty-fourth largest manager of multifamily rental real estate in the United States, with over 61,00 units under management in California and Washington. Essex uses RealPage’s RMS to manage some or all of its nearly 10,000 apartments nationally.

63. Defendant FPI Management, Inc. (“FPI Management”) is a corporation headquartered in Folsom, California, organized and existing under the laws of California. FPI Management uses RealPage’s RMS to manage some or all of its more than 140,000 units nationally.

64. Defendant Greystar Management Services, LP (“Greystar”) is a limited partnership headquartered in Charleston, South Carolina, organized and existing under the laws of Delaware. Greystar is by far the largest manager of residential rental apartments in the country, using RealPage’s RMS to manage some or all of its more than 698,000 units nationally, including approximately 21 properties in the Greater Nashville Metro Area.

65. Defendant Highmark Residential, LLC (“Highmark”) is a limited liability company headquartered in Dallas, Texas, organized and existing under the laws of Delaware. Highmark uses RealPage’s RMS to manage some or all of its more than 79,000 units nationally, including approximately eight properties in the Greater Nashville Metro Area.

66. Defendant Independence Realty Trust, Inc. (“IRT”) is a real estate investment trust headquartered in Philadelphia, Pennsylvania, organized and existing under the laws of Maryland. IRT uses RealPage’s RMS to manage some or all of its more than 36,000 rental units, including approximately five properties in the Greater Nashville Metro area.

67. Defendant Kairoi Management, LLC (“Kairoi”) is a limited liability company headquartered in Dallas, Texas, organized and existing under the laws of Texas. Kairoi uses RealPage’s RMS to manage some or all of its more than 28,000 rental units nationally.

68. Defendant Knightvest Residential (“Knightvest”) is a limited liability company headquartered in Dallas, Texas, organized and existing under the laws of Texas. Knightvest uses RealPage’s RMS to manage some or all of its more than 30,000 rental units nationally.

69. Defendant Lantower Luxury Living, LLC (“Lantower”) is a limited liability company headquartered in Dallas, Texas, organized and existing under the laws of Delaware. Lantower uses RealPage’s RMS to manage some or all of its more than 3,800 multifamily rental units nationally.

70. Defendant Lincoln Property Company (“Lincoln”) is a corporation headquartered in Dallas, Texas, organized and existing under the laws of Texas. Lincoln is a residential uses RealPage’s RMS to manage some or all of its more than 210,000 rental units, including approximately 31 properties in the Greater Nashville Metro Area.

71. Defendant Lyon Management Group, Inc. (“Lyon”) is a corporation headquartered in Newport Beach, California, organized and existing under the laws of California. Lyon uses RealPage’s RMS to manage some or all of its more than 8,000 apartments nationally.

72. Defendant Mid-America Apartment Communities, Inc. (“MAA”) is a corporation headquartered in Germantown, Tennessee, organized and existing under the laws of Tennessee. MAA uses RealPage’s RMS to manage some or all of its more than 100,000 rental units, including approximately 12 properties in the Greater Nashville Metro Area.

73. Defendant Mission Rock Residential, LLC (“Mission Rock”) is a Delaware limited liability company headquartered in Denver, Colorado. Mission Rock is one of the largest managers of multifamily rental real estate in the United States using RealPage’s RMS to manage some or all of its more than 29,000 units across the country.

74. Defendant Morgan Properties Management Company, LLC (“Morgan”) is a Delaware limited liability company headquartered in King of Prussia, Pennsylvania. Morgan is the eleventh largest property manager of multifamily rental properties in the United States and



uses RealPage's RMS to manage some or all of its more than 96,000 multifamily housing units across 20 states, including five properties in the Greater Nashville Metro area.

75. Defendant Pinnacle Property Management Services, LLC ("Pinnacle") is a Delaware limited liability corporation headquartered in Addison, Texas. Pinnacle uses RealPage's RMS to manage some or all of its approximately 172,000 units nationally, including 10 properties in the Greater Nashville Metro Area.

76. Defendant Prometheus Real Estate Group, Inc. ("Prometheus") is a California corporation headquartered in San Mateo, California. Prometheus is one of the largest managers of multifamily rental real estate in the United States, using RealPage's RMS to manage some or all of its 12,000 multifamily units under management in California, Oregon, and Washington.

77. Defendants The Related Companies L.P. and Related Management Company L.P. (collectively, "Related") are headquartered in New York, New York. Related uses RealPage's RMS to manage some or all of its more than 65,000 rental units nationally.

78. Defendant Rose Associates, Inc. ("Rose Associates") is a New York corporation with its principal place of business in New York, New York. Rose Associates uses RealPage's RMS to manage some or all of its more than 24,000 multifamily rental units nationally.

79. Defendant RPM Living, LLC ("RPM") is a limited liability company headquartered in Austin, Texas, organized and existing under the laws of Texas. RPM uses RealPage's RMS to manage some or all of its more than 112,000 rental units nationally.

80. Defendant Sares Regis Group Commercial, Inc. ("Sares Regis") is a California corporation headquartered in Newport Beach, California. Sares Regis is one of the largest managers of multifamily rental real estate in the United States, using RealPage's RMS to manage some or all of its more than 29,000 units across the country.

81. Defendant Security Properties Inc. (“Security”) is a corporation headquartered in Seattle, Washington organized and existing under the laws of Washington. Security uses RealPage’s RMS to manage some or all of its more than 22,000 rental units nationally, including approximately seven properties in the Greater Nashville Metro Area.

82. Defendant Sherman Associates, Inc. (“Sherman”) is a corporation headquartered in Minneapolis, Minnesota organized and existing under the laws of Minnesota. Sherman uses RealPage’s RMS to manage some or all of its more than 7,000 apartments nationally.

83. Defendant Simpson Property Group, LLC (“Simpson”) is a limited partnership headquartered in Denver, Colorado, formed under the laws of Delaware. Simpson, alongside its affiliate, Simpson Housing LLLP,<sup>41</sup> uses RealPage’s RMS to manage some or all of its approximately 100 multi-unit residential rental properties nationally, including approximately four properties in the Greater Nashville Metro Area.

84. Defendant Thrive Communities Management, LLC (“Thrive”) is a Washington Limited Liability Company headquartered in Seattle, Washington. Thrive has over 18,000 units under management in the greater Pacific Northwest. Thrive uses RealPage’s RMS to manage some or all of its 122 properties nationwide.

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<sup>41</sup> Simpson markets Simpson Property Group, LLC and Simpson Housing, LLP, as a joint enterprise, offering a “fully integrated real estate firm providing services in commercial and multifamily property management, development and construction.” See e.g. <https://www.simpsonpropertygroup.com/about> (“Simpson Housing [LLP] and Simpson Property Group, LLC was established for the purpose of building and operating high-quality residential communities in the Southwest. The Company has since become one of the largest privately-held residential developers and managers in the nation, we operate throughout the United States and continue to expand.”).

85. Defendant Trammell Crow Company, LLC (“Trammell Crow”) is a Delaware limited liability corporation headquartered in Dallas, Texas. Trammell Crow owned thousands of properties nationwide during the Class Period that were managed using RealPage’s RMS.

86. Defendant B/T Washington, LLC d/b/a Blanton Turner (“Turner”) is a Washington limited liability company headquartered in Seattle, Washington. Turner uses RealPage’s RMS to manage some or all of its more than 5,300 rental units nationwide.

87. Defendant UDR, Inc. (“UDR”) is a corporation headquartered in Highlands Ranch, Colorado, organized and existing under the laws of Maryland. UDR uses RealPage’s RMS to manage some or all of its more than 56,000 rental units nationally, including approximately eight properties in the Greater Nashville Metro Area.

88. Defendant Windsor Property Management Company (“Windsor”) is a Delaware corporation headquartered in Boston, Massachusetts. Windsor uses RealPage’s RMS to manage some or all of its more than 86,000 apartments nationally.

89. Defendant WinnCompanies LLC and WinnResidential Manager Corp. (collectively “Winn”) are a family of companies headquartered in Boston, Massachusetts, organized and existing under the laws of Massachusetts. Winn uses RealPage’s RMS to manage some or all of its more than 103,000 rental units nationally.

90. Defendant ZRS Management, LLC (“ZRS”) is a Florida limited liability company headquartered in Orlando, Florida. ZRS is the one of the largest managers of multifamily rental real estate in the United States, using RealPage’s RMS to manage some or all of its over 60,000 units across the country.

91. Various other persons, firms, and corporations not named as defendants have participated as co-conspirators with Defendants and have performed acts and made statements in

multifamily residential real estate leasing after the DOJ's airline settlements, however, Roper can no longer claim ignorance of the unlawful nature of this conduct.<sup>56</sup>

103. Much like the airlines' price-fixing cartel, Defendants' cartel eliminates price competition and the "race to the bottom" during periods of oversupply. As Defendant RealPage declared to potential clients in its 2020 advertising materials: "You don't have to sacrifice rent growth during a softening market."<sup>57</sup>

104. Defendants' efforts to raise rents in concert through RealPage's RMS became more effective as RealPage continued to acquire competing revenue management products and additional property managers implemented it, and the algorithm was able to take information from more market participants into account. Beginning no later than early 2016, as the RealPage pricing platform became more sophisticated and gained user confidence and additional data inputs, it was used less as an advisory product and more as a rent-setting software.

105. Defendant RealPage became the primary price-setting vendor to the multifamily housing rental software market through acquisitions of its competitors. RealPage began buying up similar and competing software companies, and it has completed 26 acquisitions since its founding.<sup>58</sup> Indeed, one former RealPage Strategic Account Analyst ("Witness 9") recalled that during her tenure, it seemed like RealPage was "acquiring businesses on a bi-weekly basis," intent on becoming "the largest multifamily real estate software provider in the world."<sup>59</sup> According to

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<sup>56</sup> Vogell, *supra* note 1.

<sup>57</sup> Revenue Management: Proven in Any Market Cycle, *supra*, note 28.

<sup>58</sup> Bloomberg Company Report, RealPage, Inc. (generated Nov. 1, 2022).

<sup>59</sup> From 2020 through 2022, Witness 9's responsibilities included reaching out to current and former RealPage clients to identify other needs that could be satisfied with one of RealPage's more than 100 and growing, software offerings. Given her role at RealPage, Witness 9 was required to remain apprised of all RealPage offerings, which were ever-changing as the result of its ongoing acquisitions.

its 2021 S-1 filing with the Securities and Exchange Commission (“SEC”), RealPage acknowledged “As part of our strategy, we plan to continue to pursue acquisitions of complementary businesses, products, and technologies.”<sup>60</sup>

106. The most important of these transactions came in 2017, when RealPage acquired LRO, RealPage’s strongest rival. The acquisition included LRO’s revenue-management software, which at the time of acquisition, provided revenue management services for over 1.5 million apartments throughout the country.<sup>61</sup> RealPage merged LRO into its existing RMS, announcing that “[a]s revenue management becomes more broadly accepted, we expect [LRO and RealPage’s] combined platform to drive accelerated, sustained revenue growth in our Asset Optimization<sup>62</sup> product family over the long run.”<sup>63</sup> LRO’s software was not the most valuable piece of the acquisition for Defendant RealPage, however – LRO’s customer base was. At the time of the merger, RealPage was pricing 1.5 million units. That number doubled with the acquisition.<sup>64</sup> RealPage announced that “the acquisition of LRO will extend our revenue management footprint, augment our repository of real-time lease transaction data, and increase our data science talent and capabilities. We expect the acquisition of LRO to increase the market penetration of our YieldStar Revenue Management solution and drive revenue growth in our other asset optimization

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<sup>60</sup> RealPage 2020 Form 10-K, *supra*, note 37.

<sup>61</sup> Mary Salmonsens, “RealPage Agrees to Acquire LRO Revenue Management Services, *Multifamily Executives* (Feb. 28, 2017), [https://www.multifamilyexecutive.com/business-finance/transactions/realpage-agrees-to-acquire-lro-revenue-management-services\\_o](https://www.multifamilyexecutive.com/business-finance/transactions/realpage-agrees-to-acquire-lro-revenue-management-services_o).

<sup>62</sup> RealPage’s Asset Optimization product suite includes among other things, its revenue management software, business intelligence and benchmarking software, and market analytics tools. *See Asset Optimization Solutions*, RealPage, Inc., <https://www.realpage.com/asset-optimization/> (last accessed June 15, 2023).

<sup>63</sup> Press Release, RealPage, Inc., RealPage to Acquire Lease Rent Options, LRO, (Feb. 27, 2017), <https://www.realpage.com/news/realpage-to-acquire-lease-rent-options/>.

<sup>64</sup> Vogell, *supra*, note 1.

solutions.”<sup>65</sup> The reference to “augment[ing]” RealPage’s “repository of real-time lease transaction” made it clear that RealPage intended to comingle the data pools on which Yieldstar and LRO previously trained their pricing algorithms, expanding the volume of commercially sensitive data that Yieldstar and LRO users were receiving and providing to their competitors to permit RealPage make pricing decisions on their behalf.

107. While the DOJ issued a “Second Request” in connection with the proposed merger due to its potential effects on competition, the DOJ took no further action, and RealPage completed the acquisition.<sup>66</sup> Even Jeffrey Roper, RealPage’s principal data scientist exclaimed, “I was surprised the DOJ let that go through.”<sup>67</sup> After its acquisition of LRO, RealPage effectively had a monopoly, such that RealPage’s RMS would influence rental prices over the entire market.

108. Certain market participants evidently knew that using LRO, particularly after its acquisition by RealPage, could lead to information sharing and price setting that posed grave antitrust concerns. In March of 2017, AvalonBay Communities Inc. (“AvalonBay”), one of the country’s largest lessors, entered into a contract with Rainmaker (predecessor to Defendant RealPage) for the use of LRO. A month after RealPage’s acquisition was announced on February 27, 2017, AvalonBay insisted on a contractual provision in its March 27, 2017 LRO Master Services Agreement (“LRO MSA”) that prohibited Rainmaker (and later, RealPage)<sup>68</sup> from: (1) utilizing any data in the LRO solution provided to AvalonBay other than AvalonBay’s own data

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<sup>65</sup> RealPage 10Q, March 31, 2017, at 11.

<sup>66</sup> Vogell, *supra*, note 1.

<sup>67</sup> *Id.*

<sup>68</sup> RealPage signed an amendment to the LRO MSA in 2022, which kept in place the Input Representation and Data Entry Representation, and labelled RealPage “The Rainmaker Group Real Estate, LLC[’s]” “successor in interest”.

and publicly available data; and (2) utilizing AvalonBay's data or disclosing the LRO recommendations made to AvalonBay to any other Rainmaker (later, RealPage) client:

4.5 With respect to the LRO® Revenue Management Solutions, **Rainmaker** shall be responsible for the following:

- In no event will Rainmaker utilize any data other than data provided by Customer expressly for such purpose or data obtained through publicly available sources or such other sources as identified in the applicable Module which Customer has opted to purchase in writing in the Rainmaker System licensed to Customer without the prior express written consent of Customer (the "Data Entry Representation").
- In no event will Rainmaker utilize in the Rainmaker System licensed to anyone other than Customer any Customer Data that is not obtained through other sources or otherwise developed independently by Rainmaker without use of the Customer Data provided by Customer to Rainmaker. Furthermore, Rainmaker will not provide any recommendations as to rent provided to Customer for

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Customer's Managed Properties through the Rainmaker System to any other parties (the "Input Representation")

109. AvalonBay was apparently so concerned by the possibility that Rainmaker and RealPage's RMS might use AvalonBay's data to set competitors' prices and/or use those competitors' prices to set AvalonBay's prices – notwithstanding that Clause 4.5 prohibits them from doing so – that AvalonBay insisted on even further protection. It required clauses that require Rainmaker and RealPage to expressly "represent and warrant that [they] will not violate the Input Representation or the Data Entry Representation," Clause 8.1.6, and "indemnify, defend and hold harmless [AvalonBay] from and against any and all claims, costs, expenses, losses, damages and liabilities (including legal costs and reasonable attorney's fees) incurred by [AvalonBay] in the event that" Rainmaker and RealPage breach these terms. Clause 8.1.1. The indemnification requirement is repeated again in Clause 9.2: "Rainmaker shall defend, indemnify and hold

harmless [AvalonBay and its employees] from any claims, damages and liabilities arising out of (i) any violation of the Input Representation or the Data Entry Representation...”.

110. Although the integration of LRO and YieldStar is understood to have begun shortly after LRO’s acquisition closed at the beginning of January 2018,<sup>69</sup> in 2020, RealPage announced a new Revenue Management Solution: AI Revenue Management, or AIRM, which it touted as a combination of its legacy revenue management platforms and a “super-charged price optimization and revenue management tool.”<sup>70</sup> “Following decades of proven performance with our YieldStar and LRO solutions, we’ve supercharged the next generation of price optimization. Bringing components of both systems together to provide even more pricing precision and extending optimization to amenities, to identify hidden yield within each unit.”<sup>71</sup> “AI Revenue Management is a game-changing innovation in price optimization that maximizes asset value. By combining the best of YieldStar and LRO with improved algorithms, precision AI forecasting and optimized amenity pricing, it can help you realize a 400% year-one ROI [return on investment], achieve up to 200 basis points (bps) and outperform the market by 2%-7% year over year.”<sup>72</sup> Built upon the

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<sup>69</sup> Mary Salmonsens, *RealPage Closes on Lease Rent Options Acquisition*, MULTIFAMILY EXEC. (Jan. 3, 2018), <https://www.multifamilyexecutive.com/business-finance/realpage-closes-on-lease-rent-options-acquisition/> (last visited on July 3, 2023) (“Integration is expected to be completed in 2018.”).

<sup>70</sup> Guy Leman, *Don’t Miss This! Unveiling of “AIRM” AI Revenue Management at RealWorld*, REALPAGE BLOG (Sept. 8, 2020), <https://www.realpage.com/blog/dont-miss-this-unveiling-of-airm-ai-revenue-management-at-realworld/> (last visited on June 30, 2023).

<sup>71</sup> *Id.*

<sup>72</sup> The RealPage e-book, *Introducing AI Revenue Management: Next-Generation Price Optimization That Unlocks Hidden Yield*, REALPAGE, INC. (2020) (hereinafter, “Introducing AI Revenue Management e-book”).



bedrock of its legacy products, LRO and YieldStar, “[t]he backbone of AIRM is historical data collected from six million lease transactions across the U.S. over the last five years.”<sup>73</sup>

111. While it remains unclear whether RealPage offers new subscriptions to its legacy revenue management products – YieldStar and LRO – these products, or some iteration thereof, remain within its RMS portfolio and RealPage continues to license these solutions to some RealPage customers, including various Defendants in this action.

112. While certain Defendants may use one RealPage revenue management software over the other, RealPage’s RMS are integrated on the RealPage side at the software and data levels. Indeed, the Terms of Service governing RealPage’s post-acquisition licensing of LRO confirms that when a LRO customer inputs data into the RealPage system, that data is not treated as confidential if “transformed or aggregated” at RealPage’s discretion, and not specifically identifiable to the customer.<sup>74</sup> Moreover, while RealPage continues to license LRO in some fashion, the LRO program available post-RealPage acquisition “include[es] Enhancements provided by RealPage” and allows RealPage to make “ongoing modifications.”<sup>75</sup> Additionally, the Terms of Service provide that “RealPage will assume or otherwise facilitate the role of Pricing Revenue Manager” for LRO customers.<sup>76</sup>

113. RealPage’s control over multifamily rental prices continued to grow after its acquisition of LRO. By the end of 2022, RealPage claimed that its RMS set the price for more

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<sup>73</sup> Wendy Broffman, *Same Assets. Better Performance*, YIELD PRO (Oct. 16, 2022), <https://yieldpro.com/>

<sup>74</sup> Terms of Service for Rainmaker System Modules (Dec. 7, 2017), <https://www.realpage.com/rainmakermfh-terms/>

<sup>75</sup> *Id.*

<sup>76</sup> Notably, numerous individuals who currently hold the title of Revenue Manager or Pricing Advisor at RealPage, simultaneously hold the position of “LRO Advisor.”

than four million rental units.<sup>77</sup> These four million units, however, provide only a portion of the data available to train Defendant RealPage's algorithm. RealPage is also able to mine data from property managers that rely on RealPage software other than its RMS. According to RealPage's last annual report before being acquired by Thoma Bravo, as of December 31, 2020, its "client base of over 31,700 clients used one or more of [its] integrated data analytics or on demand software solutions to help manage the operations of approximately 19.7 million rental real estate units."<sup>78</sup>

114. RealPage's vast client base provides it with real-time data on every aspect of the rental housing market, including actual rent prices as opposed to advertised rents – data which was previously unavailable to landlords. With this data, Defendant RealPage is able to calculate and disseminate supracompetitive unit-by-unit pricing on a daily basis for use by the Lessor Defendants, touting that its algorithm "crunches *millions of transactions each night*, pinpointing price shifts for *every single unit* on the platform at any point in time."<sup>79</sup>

115. Figure 5, below, is a diagram from an eBook published by Defendant RealPage on its website.<sup>80</sup> It demonstrates how RealPage aggregates the data (including nonpublic lease transaction data) that enables RealPage to coordinate pricing among its clients.

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<sup>77</sup> *RealPage AI Revenue Management*, REALPAGE, INC., <https://www.realpage.com/asset-optimization/revenue-management/> (last accessed June 14, 2023).

<sup>78</sup> See RealPage 2020 Form 10-K, *supra*, note 37.

<sup>79</sup> *YieldStar Calculates the Right Rent Price at the Right Time*, REALPAGE VIDEOS, <https://www.realpage.com/videos/yieldstar-measures-price-elasticity/> (last accessed June 14, 2023) (emphasis added).

<sup>80</sup> *3 Ways to Leverage AI for Maximum NOI 8* (2022), <https://www.realpage.com/ebooks/leverage-ai-maximum-noi/> (last accessed June 14, 2023).

ourselves,”<sup>83</sup> with the benefit of RealPage’s access to each competitor’s past, current, and future pricing, and leasing decisions. RealPage then pressures and actively assists its clients to “outsource [their] daily pricing and ongoing revenue oversight” to RealPage.<sup>84</sup>

120. Following RealPage’s entry into the market, the Lessor Defendants all concertedly shifted from prioritizing occupancy (*i.e.*, market share) over price, to prioritizing price over occupancy – a telltale sign of anticompetitive coordination.

121. By enabling property managers to outsource lease pricing decisions to RealPage’s RMS, Defendant RealPage has corrupted rental markets, replacing independent centers of decision making with a single effective decisionmaker – RealPage. Indeed, Witness 9 explained that RealPage’s RMS were pitched to clients as a learning system that would analyze comparable properties and set prices that multifamily real estate owners and operators “wouldn’t have to mess with.” Moreover, Witness 9 explained that RealPage’s RMS were pitched as saving owners and operators of multifamily residential rental properties the time from “having to do their own research.” A former industry executive closely involved in the development of LRO (Witness 7) explained that, in conjunction with Pricing Advisors, the vast amount of data RealPage holds allows its RMS to act as “a deterministic tool” wherein “if you put in the same values you get the same results” across Lessors.

122. A former Leasing Consultant and Assistant Property Manager for two properties managed by Defendant Lincoln in the Greater Nashville Metro Area (Witness 4)<sup>85</sup> explained that

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<sup>83</sup> RealPage Renewal Reporting Presentation, *supra*, note 4.

<sup>84</sup> Press Release, RealPage, Inc., YieldStar Offers Revenue Management Advisory Services to Multifamily Owners and Managers, *supra*, note 3.

<sup>85</sup> From 2017 through 2018, Witness 4 worked as a Leasing Consultant at a property located in the Greater Nashville Metro Area and managed by Defendant Lincoln. Subsequently, from 2019 until 2020, Witness 4 worked as an Assistant Property Manager at another property in the

130. Witness 5 explained that the need to accept price and occupancy recommendations was RealPage's constant focus. RealPage continually reiterated to its clients that "you can run a property with fewer people living there, and still meet or exceed what you've made in the past."

131. As part of RealPage's ongoing "education" and "training" of its property management clients, RealPage's Pricing Advisors frequently explained that any losses incurred due to units remaining vacant are recaptured through higher rental prices when a lease is executed. Witness 5 explained that every day a unit sits vacant, that vacancy "loss" is "built into" RealPage's daily pricing recommendation in that market.

132. Put another way, by outsourcing their pricing decisions to RealPage, each Lessor Defendant knows that the impact of the ever-rising prices set by RealPage's algorithm will outpace their vacancy losses. In the absence of coordinated behavior, this price-over-volume strategy is economically irrational behavior, particularly for a perishable resource like multifamily rentals (if a unit sits vacant for a month, that Lessor Defendant(s) can never monetize that lost month of rent). This irrational behavior was only accomplishable because RealPage allowed Lessors to avoid the prisoner's dilemma that would, absent collusion, dictate that Lessors keep "heads in the beds."

133. During PTMs, RealPage also shares market intelligence with its clients. Witness 5 explained that RealPage obtained intelligence from two sources. The first of these is "survey data" which is collected through in-person or telephone interviews and obtained by RealPage through third-party vendors such as CoStar.<sup>90</sup> The second source is what RealPage refers to as "transactional data," by which RealPage means the actual lease terms, rental prices, vacancy rates,

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<sup>90</sup> CoStar is the self-described, "industry leader in commercial real estate information, analytics, and news [ ] provid[ing] clients with the data and tools they need to make smart decisions and stay ahead of competition," including in the multifamily rental housing market. *About CoStar*, CoSTAR, <https://www.costar.com/about> (last accessed July 3, 2023).

and other data points that it requires its clients using its RMS, as well as other RealPage software to provide. Witness 5 explains that “survey data” and “transactional data” are “blended” into a comprehensive data set used during PTM meetings to compare the region’s market performance with clients’ performance.<sup>91</sup> Despite the “blended” nature of this data set, Witness 5 explained that RealPage representatives regularly advise and emphasize to clients at PTM meetings that the data presented contains ample and granular transactional data, pooled from the client’s direct competitors in the region.

134. Witness 5 reports that this was often done in instances when a client would bring their own dataset (largely based on survey data) to PTMs to assess whether RealPage’s data varied. When it did, RealPage representatives were quick to qualify its own data as more reliable than any data pulled by a property management company independently, as RealPage’s data contained actual transactional data from across the market and the client’s key competitors, Witness 5 clarified that “any time we use the term ‘transactional data’ we make clear to the client that [this] is RealPage user’s data.”

135. Witness 5 stated that during weekly Revenue Management team conference calls and annual team summits, RealPage Vice President and Industry Principal, Andrew Bowen<sup>92</sup> often

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<sup>91</sup> Similarly, to track its legacy LRO users’ performance post-acquisition, RealPage provided users with certain historic reports “determined by RealPage in its sole discretion,” including “aggregate[d] historical reports that include data regarding [at least 5] third party comparable properties (as determined by RealPage),” and identified the market or submarkets for which the reports were developed. (Terms of Service, *supra* note 74). Additionally, RealPage notified its LRO users that the data they input into the RealPage host system “in a method and format prescribed by RealPage,” did **not** qualify as “confidential information or trade secrets” per the Terms of Service, “if transformed or aggregated” by RealPage, and not identifiable to the LRO customer. *Id.*

<sup>92</sup> At the time, Witness 5 worked as a Pricing Advisor, Andrew Bowen served as RealPage’s “Industry Principal – Asset Optimization,” a role Bowen held from October 2010 through February 2022, in which his “expertise center[ed] around [RealPage’s] Investment Analytics, Performance Analytics, Business Intelligence and Revenue Management solutions, and how [RealPage’s]

15 percentage points in 2006 after implementing a RealPage RMS, here, YieldStar. Despite that increase in turnover rates, Defendant Camden’s overall same-property revenue grew over 7% in its first year using YieldStar. “What we found,” Campo said, “was that driving our turnover rate up actually captured additional revenue.”<sup>93</sup> While Defendant Camden’s turnover expenses increased by \$2.5 million, revenue increased \$12.5 million. According to Campo, “[T]he net effect of driving revenue and pushing people out was \$10 million in income.”<sup>94</sup>

139. Defendant RealPage also provides its customers with real-time information about their competitors’ lease terms, and provides lease term recommendations aimed at avoiding oversupply of units caused by natural ebbs and flows in the market. RealPage’s RMS use the occupancy data that it collects to recommend lease renewal dates that are staggered to avoid any period of oversupply. Property managers can then hold units vacant for a period, while keeping rent prices inflated.<sup>95</sup> This strategy of the staggering of lease renewal dates smooths out natural fluctuations of supply and demand, which further reduces any incentive for Defendants and their coconspirators to undercut their inflated prices. This incentive is always the greatest in periods of oversupply, when the individual benefits of reducing rents to increase occupancy are highest. As one multifamily executive explained in 2019, “LRO is mapping out for our teams how they should be pacing their [lease] expirations.”<sup>96</sup>

140. A former Assistant Community Manager at Sunrise Management and Greystar Leasing Consultant (Witness 2) confirmed that among the factors considered in RealPage’s pricing

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<sup>93</sup> Bousquin, *supra*, note 44.

<sup>94</sup> *Id.*

<sup>95</sup> RealPage e-book B & C Assets Ace the Market, *supra*, note 5, at 4-5.

<sup>96</sup> RealPage Revenue Management Maximizes Market Opportunity, RealPage Videos (Dec. 2, 2019), <https://www.realpage.com/videos/revenue-management-maximizes-market-opportunity/>

**E. Property Managers Who Adopted RealPage's Pricing Recommendations Did so with the Common Goal of Raising Rent Prices Which Conspiracy, Caused Inflated Rental Prices and Reduced Occupancy Levels in Their Respective Metro Areas**

171. Cartel members share their confidential data with the knowledge that Defendant RealPage will recommend rents to their competitors based on the data provided, in essence providing their competitors with clear insight into their confidential business information. Cartel members also know their competitors are likewise sharing their own confidential business information with RealPage, from which each cartel member can glean information about their competitors' pricing, as well as other data points. Defendant RealPage informs both current and prospective clients that its RMS include "competitor rent data [as] one of the several data inputs" into its algorithm in the "FAQs" section of its website relating to RMS.<sup>104</sup> Witness 5 also confirmed that RealPage representatives regularly advised clients during PTMs that the pooled data reviewed during these meetings contained their regional competitors' transactional data. Likewise, per the Terms of Service, legacy LRO users are informed that their data may be aggregated into pooled data sets, and may be provided with their regional competitors' pooled data.

172. Defendant RealPage calls this information exchange "continuous optimization through connected intelligence" and brags that it is "[b]uilt on the market's largest real-time data set."<sup>105</sup> Coordinated algorithmic pricing allows property managers to, in RealPage's own words, "outsource daily pricing and ongoing revenue oversight" to RealPage, allowing RealPage to set

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<sup>104</sup> RealPage Revenue Management FAQs, *supra* note 6.

<sup>105</sup> The RealPage e-book, *Introducing AI Revenue Management: Next-Generation Price Optimization That Unlocks Hidden Yield*, REALPAGE, INC. (2020).

prices for client property managers' properties "as though we [RealPage] own them ourselves."<sup>106</sup> Put differently, RealPage's RMS allow Lessors to operate as if they were one company setting prices at the monopoly level, which is the goal of any cartel.

173. This mutual sharing of information only makes sense when cartel members are confident that their competitors will not use the information to gain a competitive advantage by lowering rents to lure away customers. As Davidoff stated, while all property management companies "would be better off limiting their rent reductions," if any property management company "lower[ed] their rents while the others don't, then that [property management company] would outperform."<sup>107</sup> Recognizing this, Defendant RealPage urged its clients to "shop your competitors over the phone, in-person, and view their websites."<sup>108</sup>

174. Property managers who use Defendant RealPage's RMS do so with the explicit and common goal of increasing rents for all members of the cartel by using coordinated algorithmic pricing. RealPage advertises that its customers outperform the market by 3–7% year over year.<sup>109</sup> RealPage's clients find its RMS particularly helpful because, as RealPage explains, those services allow the property managers to "make sure we're limiting our supply when there isn't too much demand."<sup>110</sup>

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<sup>106</sup> RealPage Renewal Reporting Presentation, *supra*, note 4.

<sup>107</sup> Davidoff, *supra*, note 43.

<sup>108</sup> See Figure 4, *supra*.

<sup>109</sup> *YieldStar Predicts Market Impact Down to Unit Type and Street Location*, REALPAGE, INC., <https://www.realpage.com/videos/yieldstar-data-scientists-help-manage-supply-demand/> (last accessed on June 15, 2023) ("Find out how YieldStar can help you outperform the market 3% to 7%").

<sup>110</sup> *RealPage Revenue Management Maximizes Market Opportunity*, REALPAGE VIDEOS (Dec 2, 2019), <https://www.realpage.com/videos/revenue-management-maximizes-market-opportunity/> (last accessed on July 3, 2020) (interview with John Kirchmann, CFO of IRET Property Management).